



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Sixth day of February Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL OP(MD) No.23755 of 2016

SENTHIL KUMARAN, ... PETITIONER / SOLE ACCUSED

Vs

State represented by
THE INSPECTOR OF POLICE,
ABIRAMAM POLICE STATION, RAMANATHAPURAM DISTRICT.
(CR.NO.161/2016)

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.V.SASIKUMAR Advocate

For Respondent : Mr.P.Kandasamy Govt. Advocate (Crl. Side)

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

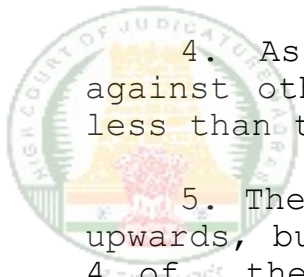
ORDER : The Court Made the following order :-

The petitioner, who is the sole accused in this case, apprehends arrest at the hands of the respondent Police for the alleged offence punishable under Section 294(b) of IPC., and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 1998, in Crime No.161 of 2016, seeks anticipatory bail. Admittedly, the offence under Section 294(b) of IPC., is bailable one, as shown in the classification of offences of IPC., shown in the First Schedule of Cr.P.C.,

2. The learned counsel appearing for the petitioner contends that the offence under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act is non-bailable one and hence, the petition seeking anticipatory bail is maintainable.

3. Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, reads as follows:-

"Penalty for harassment of woman. -- Whoever commits or participates in or abets harassment of woman in or within the precincts of any educational institution, temple or other place of worship, bus stop, road, railway station, cinema theatre, park, beach, place of festival, public service vehicle or vessel or any other place shall be punished with imprisonment for a term which may extend to three years and with fine which shall not be less than ten thousand rupees."



4. As per Schedule II Classification of Cr.P.C., offences against other laws, the offences punishable with imprisonment for less than three years or with fine only is bailable.

5. The offence punishable with imprisonment for three years and upwards, but not more than 7 years is non-bailable. Under Section 4 of the said Act, the punishment provided is imprisonment of either description for term which may extend to three years and also fine. That means, imprisonment can be for a clear period of 3 years or less. Hence, it could not be said that minimum sentence would be 3 years or more. The expression, "punishment for the term which may extend to three years" is certainly not similar to the expression, "punishment for three years and upwards"

6. In view of the authoritative pronouncement of Apex Court in **Rajeev Chaudhary Vs. State (NCT) of Delhi** reported in **(2001 (5) SCC 34) : (AIR 2001 SC 2369)**, the expression used in second category of II Part of Schedule of Cr.P.C., viz., the term of imprisonment for three years or upwards, but not more than seven years cannot be equated with the expression used in Section 4 of the said Act, viz., the imprisonment which may extend to three years. The above principle laid down in the above Apex Court Judgment is also relied on in the Judgment in **Amarnath Vyas Vs. State of A.P.** reported in **(2007 Cr1.L.J 2125)**. Since the offences are bailable one, the petitioner can approach the concerned trial Court for bail and anticipatory bail does not attract and therefore, this petition for anticipatory bail is liable to be dismissed.

7. In the result, this petition for anticipatory bail stands dismissed.

sd/-

06/02/2017

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE INSPECTOR OF POLICE,
ABIRAMAM POLICE STATION, RAMANATHAPURAM DISTRICT.
- 2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

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ORDER

IN

CRL OP(MD) No.23755 of 2016

Date :06/02/2017